



U.S. DEPARTMENT OF JUSTICE

*United States Trustee
Districts of South Dakota,
North Dakota, Iowa and Minnesota*

Suite 303

Writer's Direct Dial No. 605/330-4450 ext. 104

314 South Main Avenue
Sioux Falls, South Dakota 57104-6321

Fax 605-330-4456

July 24, 2012

TO: Chapter 13 Debtors' Attorneys
FROM: Bruce J. Gering

Re: Preparation of Chapter 13 Fee Applications

With the recent requirement for professionals to file fee applications in chapter 13 cases, I am seeing a number of fee applications that do not comport with the bankruptcy code and established case law. After receiving several requests for guidance to help you prepare better applications, I offer the following suggestions and example:

Fee Application:

In the opening paragraph, summarize the basis for the employment, the employment terms, and the statutory basis for the application.

In the second paragraph, summarize the work done. If additional work or expenses are expected, so state and identify this application as an interim application. Because fees can only be awarded for "actual and necessary" services, it is not possible to obtain and award of fees for services not yet rendered.

In the third paragraph, set forth the fees sought. Separately set forth the amounts sought for compensation for services and expenses to be reimbursed. Include any filing fee in the expenses. Do not deduct any retainer or other payments here.

In the fourth paragraph, list any retainer or other payments received, who paid each, and the date each was received. For a fee application by an attorney for a debtor, the information in this paragraph should match the information contained in the attorney's Disclosure of Compensation and any Supplemental Disclosure of Compensation.

In the fifth paragraph, set forth the terms of any fee sharing agreement.

In the prayer for relief, summarize the fees sought and the action requested by the Court.

Itemization of professional services and expenses:

An itemization of professional services rendered and expenses incurred must be filed with each application as an exhibit. In the itemization, include the date each service was rendered, a description of each service, who rendered it, and the time utilized. For every phone call or other contact, there should be a brief description of the substance of the conversation. Disparate services rendered on the same day should not be “lumped” together but should either be listed separately, or with the time spent in parenthesis immediately following the work item as shown in the example itemization. Services by different professionals should be itemized separately. Also each expense should be separately itemized with the date it was incurred, a short description, and the cost.

State any retainers or other payments received and the date received. If the professional is waiving any fees, state how much is waived and why. For example, “Attorney Jones waives \$500.00 in compensation based on his agreement with Debtor that total fees would not exceed \$2,500.00.”

I hope this information will assist you in preparing applications to which I will not have to object. If you have questions or wish to discuss this matter, please call or send me an e-mail.